


First Named Inventor	Kie Y. Ahn
Serial No.	10/808,189
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Group Art Unit	2814
Examiner Name	Long Pham
Confirmation No.	4567
Attorney Docket No.	400.085US03



**PRE-APPEAL BRIEF
REQUEST FOR
REVIEW**

Title: DOPED ALUMINUM OXIDE DIELECTRICS

Mail Stop: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the first Advisory Action mailed June 21, 2006 and the second Advisory Action mailed August 3, 2006, please consider the following in the Pre-Appeal Brief Request for Review:

REMARKS

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 18, 3-5, 12-17, 19, 23, 24 and 25

Claims 1, 18, 3-5, 12-17, 19, 23, 24 and 25 were rejected under 35 U.S.C. § 102(e) as being anticipated by Park et al. (U.S. Publication 2001/0024860). Appellant respectfully traverses.

The first Advisory Action states, “In response to the arguments in the paragraphs on pages 2-4 of the response dated 06/05/06, it is submitted that the rejected claims as written do not require ALL of dopant material below the surface is confined ONLY to the pores as presently argued.” First Advisory Action, page 2, *Response to Arguments* (emphasis in original). Appellant disagrees with this interpretation. In its response mailed July 5, 2006, Appellant noted that in the claims as written, it is the presence of dopant material that is confined to the pores. Appellant contends, therefore, that if dopant material is placed in structures other than pores, its presence cannot be confined to the pores.

The second Advisory Action asserted, “In response to the applicant’s arguments paragraphs on pages 2, 3, and 4, it is submitted that Park et al. teach that the dopants below the surface of the aluminum oxide are filling or moving into the pores, vacancies, or voids that is the dopant is confined to the space or pore it occupies. See [0019] and [0020].” Second Advisory Action, page 2, *Response to Arguments*. Based on this response, it is clear that the Office is focusing on physically confining pockets of dopant material, and not focusing on confinement of its presence as recited in the claims.

The subject of the phrase, “the presence of dopant material below the surface is confined to the pores,” is not the dopant material, but its presence. Therefore, it is the presence that must be confined. Because the Office is focusing of the physical boundaries of pockets of dopant material, the Office is applying a meaning to the phrase that is inconsistent with its intent and its ordinary meaning. The Advisory Actions each admit that Park et al. teaches that its dopant material is present in structures other than pores. Therefore, its presence is not confined to the pores, because its presence extends to other structures. Appellant contends that when the phrase “the presence of dopant material below the surface is confined to the pores” is interpreted

consistent with its ordinary meaning, the cited reference expressly teaches away from this limitation.

In addition to being consistent with its ordinary meaning, Appellant's interpretation of the disputed phrase is consistent with the Specification as filed. *See*, Specification, Figures 1A-1C and paragraphs 0022-0038 (showing formation of islands of dopant material 107 only in pores 104 that are open to the surface of the aluminum oxide layer 102). Appellant contends that the meaning attached by the Office is both inconsistent with its ordinary meaning and inconsistent with Appellant's Specification.

Because each of the rejections is premised on an erroneous interpretation of the phrase "wherein the presence of dopant material below the surface is confined to the pores," Appellant contends that each of the rejections is improper. For a more detailed analysis of the rejections, please refer to Appellant's response to the first Advisory Action, mailed July 5, 2006, and Appellant's response to the Final Office Action, mailed June 5, 2006.

Allowable Subject Matter

Appellant acknowledges that claims 2, 27 and 88-107 were indicated as being allowed.

CONCLUSION

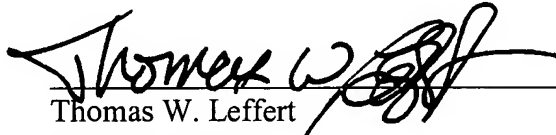
In view of the above remarks, Appellant believes that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance be issued in this case. Please charge any further fees deemed necessary or credit any overpayment to Deposit Account No. 501373.

If the Examiner or the review panel has any questions or concerns regarding this application or request, please contact the undersigned at (612) 312-2204.

Respectfully submitted,

Date:

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